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1:11-cv-1817

United States District Court  
Middle District of Pennsylvania  
Matthew Katona.

Plaintiff

v.

Donna Asure, "Warden of Monroe County  
Correctional Facility of Pennsylvania.

James Shea, "Sergeant" of Monroe County  
Correctional Facility of Pennsylvania.

Jerome Storm, "Correctional Officer" of  
Monroe County Correctional Facility of  
Pennsylvania.

Christopher Okula, "Correctional Officer" of  
Monroe County Correctional Facility of  
Pennsylvania.

Individually and in their own capacities.

Defendants

Civil Action No. \_\_\_\_\_

Complaint

FILED  
SCRANTON

OCT 03 2011

PER Amo  
DEPUTY CLERK

### I. Jurisdiction & venue

1. This is a civil action authorized by U.S.C. section 1983 to redress the deprivation, under color of state law, of rights secured by the constitution of the United States. The court has jurisdiction under 28 U.S.C. section 1331 and 1343 (a)(3). Plaintiff Katona seeks declaratory relief pursuant to 28 U.S.C. Section 2201 and 2202. Plaintiff Katona's claims for injunctive relief are authorized by 28 U.S.C. section 2253 and 2254 and Rule 65 of the Federal rules of civil procedure.

2. The Middle District of Pennsylvania is an appropriate venue under 28 U.S.C. section 1391(b)(2) because it is where the events giving rise to this claim occurred.

### II. Plaintiff

3. Plaintiff Matthew Katona, is and was at all times mentioned herein a prisoner of the state of Pennsylvania in the custody of the SCT Coal Township, Pa.

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tly confined in SCI coal town ship in coal town ship Pennsylvania.

### III. Defendant's

4- Defendant Donna Asure, is the "warden" of Monroe county correctional Facility. she is legally responsible for the operation of Monroe county correctional Facility and for the welfare of all the inmates of that county Prison.

5- Defendant James. Shea, is the "sargeant" of Monroe county correctional facility. He is legally responsible for the unit's of Monroe county correctional Facility.

6- Defendant Jerney. Storm, is a "correctional officer" of Monroe county correctional Facility who, at all times mentioned in this complaint, held the rank of prison guard and was assigned to Monroe county correctional Facility.

7- Defendant Christopher. Okula, is a "correctional officer" of Monroe county correctional Facility who, at all times mentioned in this complaint, held the rank of prison guard and was assigned to Monroe county correctional Facility.

8- Each defendant's sued individually and in his/her official capacity. At all times mentioned in this complaint each defendant acted under color of state law.

### III. Facts

9- At all times relevant to this case, Plaintiff Matthew. Katona. was in the Restrictive, Housing, unit cell-8.

10- On Feb. 23, 2011 Defendant storm and Defendant Okula was assigned to the Restrictive, Housing, unit.

11- Defendant storm came over to plaintiff Katona's cell-8 and started yelling you fake white muslim rap

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head up and off of that floor and while your on your knees you could suck my dick like the Big Boyz make you do it up state.

12- Plaintiff Katona, got to his feet and asked Defendant storm to not talk to him like that and what does he want. Defendant storm said do you want your shower, Plaintiff Katona, said yes sir.

13- Defendant storm opened plaintiff Katona's cell 8 and defendant storm walked in and put shackles on plaintiff Katona.

14- Defendant storm then smacked, Plaintiff Katona's Kuffie off of his head and called plaintiff Katona a fake white muslim.

15- Defendant storm was wringing out the mop in the mop bucket so he could hand it to Defendant Okula who was upstairs on the top tear giving another inmate his recreation.

16- Defendant storm seen Plaintiff Katona come out of his cell after cleaning it and defendant storm punched plaintiff Katona in his right eye, which caused it to split and start bleeding.

17- Plaintiff then lunged at Defendant storm in self-defense, while his right eye was still bleeding and began to swell.

18- Defendant Okula ran down the stairs and picked up Plaintiff Katona and took him in his cell and slammed him on the floor and handcuffed him behind his back so that plaintiff Katona was secured and restrained.

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19- Defendant storm came in the cell-8 and yelled at plaintiff Katona by saying you little mother fucker and defendant storm began, punching, plaintiff Katona in the left side of his face, while, plaintiff Katona was being held down by defendant Okala and while plaintiff had shackles on his ankles and was handcuffed behind his back.

20- Defendant storm then called for rovers.

21- when the rovers came into the cell-8 in the restrictive, Housing unit, ~~cell~~ they began stomping, punching and chocking plaintiff Katona.

22- Plaintiff Katona looked over his right shoulder and asked "Defendant sergeant James, Shea," to tell the co's to stop beating him, Defendant Shea, then said shut the fuck up and began kicking, plaintiff Katona in his right side of his ribs.

23- plaintiff Katona was put in the Restraint chair for over 2 hours and when he was let out, plaintiff Katona looked in the mirror because he was feeling pain in his face. Plaintiff Katona's "Right eye was bruised, swollen and split", "Left eye was bruised, swollen and split", "Left side of his face was bruised and swollen", "Right side of his face was bruised and swollen", "His upper lip was bruised, split and swollen", He also felt extreme pain in his upper right ribs on his right side. He got no medical treatment for 17 days and no x-rays for 24 days.

24- Plaintiff Katona, got pictures taken on Feb, 24 2011 by state trooper David P. Hudzinski Badge no. 8874 and plaintiff Katona pressed assault charges.

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25. Defendant "Sargeant" James. Shea" got suspended without pay on Feb, 24 2011 and eventually got fired for assaulting Plaintiff Katona.

26 CO's at Monroe County Correctional Facility wrote a statement on defendant Shea, saying that they had witnessed defendant Shea, kick Plaintiff Katona in his right side while he was handcuffed behind his back and secured.

#### IV. Exhaustion of Legal Remedies

27. Plaintiff Katona, used the prisoner grievance procedure available at Monroe County Correctional Facility to try and solve the problem which, Plaintiff Katona, never got a response back.

#### V. Legal Claims

28 Plaintiff Katona's reallege and incorporate by reference paragraphs 1-29.

29. Defendant Donna. Asure, is in violation of the 1st Amendment because she did not give defendant storm the proper training and education for Plaintiff Katona's religion rights by storm calling, Plaintiff Katona, a fake white muslim and smacking his Kuffie off of his head, Defendant Asure is in violation of the 8th Amendment by not giving defendant storm, defendant Okula and defendant Shea the proper training to not cause harm to inmates like they did to, Plaintiff Katona. The 1st and 8th Amendment was violated under the United States Constitution and is causing Plaintiff Katona, Pain, suffering, Physical injury and emotional distress.

30. Defendant James. Shea. used excessive force against Plaintiff Katona, by kicking him in his ribs when he was being held down and with shackles on his ankles and

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with his hands cuffed behind his back. Defendant Shea's, actions violated Plaintiff Katona's, rights under the 8th ~~Constitution~~ Amendment to the United States Constitution, and caused Plaintiff Katona, pain, suffering, physical injury and emotional distress.

31- Defendant Jeremy Storm, used and continues to use excessive force against Plaintiff Katona, by punching him in his right eye when he came out of his cell to take a shower, by smacking his kuffie off of his head and by punching Plaintiff Katona, in his face several times while he was handcuffed behind his back and with shackles on his ankles and while he was secured by Defendant Okula. Defendant Storm's actions is a violation, he violated Plaintiff Katona's, rights under the 1st and 8th Amendment to the United States Constitution, and caused Plaintiff Katona, pain, suffering, physical injury and emotional distress.

32- By witnessing Defendant Storm's illegal actions, failing to correct that misconduct and ~~thereby~~ encouraging the continuation of the misconduct, Defendant Okula is also violating Plaintiff Katona's rights under the 8th Amendment to the United States Constitution and caused Plaintiff Katona, pain, suffering, physical injury and emotional distress.

33- Plaintiff Katona has no plain, adequate or complete remedy at law to redress the wrongs described herein. Plaintiff Katona has been and will continue to be irreparably injured by the conduct of the defendant's unless this court grants the declaratory and injunctive relief which Plaintiff Katona, seeks.

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VI. Prayer for relief

wherefore, Plaintiff Katona respectfully pray that this court enter Judgement:

34- Granting plaintiff Katona a declaration that the acts and omissions described herein, violate his rights under the ~~constitution~~ constitution and laws of the United States, and

35- A preliminary and permanent injunction ordering Defendant's Asure to give proper training, and Defendant's storm, Shea and Okola to cease their physical violence and threats toward plaintiff Katona, and

36- Granting plaintiff Katona compensatory damages in the amount of \$300,000 against each defendant, jointly and severally.

37- Plaintiff Katona also seek a ~~jury~~ jury ~~trial~~ trial on all issues triable by jury.

38- Plaintiff Katona also seek recovery of their cost in this suit, and

39- Any additional relief this court deems just, proper, and equitable.

Dated: September 25, 2011

Respectfully submitted

Matthew Katona.

#JP-3463

1 Kelley Drive

Coal Township, PA 17866-1021

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verification

I have read the foregoing complaint and hereby verify that the matters alleged there in are true, except as to matters alleged on information and belief, and, as to those, I believe them to be true, I certify under penalty of perjury that the foregoing is true and correct.

Executed at SCI Coal Township, Pennsylvania on September, 25 2011.

/s/ Matthew Katona.

X 



1 Kelley Drive.

coal town ship, PA 17866-1021

NO FEE  
RECEIVED  
SCRANTON

PER [Signature]  
DEPUTY CLERK

PA. DEPT. OF CORRECTIONS

U.S. District court, Middle District of Pennsylvania

William J. Nealon Federal Building 3 U.S. Courthouse

235 N. Washington Ave, P.O. Box 1148

Scranton, PA 18501